

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 21-cr-173 (PJS/DTS)

Plaintiff,

v.

ORDER

Anton Joseph Lazzaro (1),

Defendant.

Defendant Anton Joseph Lazzaro filed a Motion of Defendant for Continuance of Motion Hearing Court Date [Dkt. No. 160] and a Statements of Facts in Support of Exclusion of Time Under the Speedy Trial Act [Dkt. No. 161]. Defendant requests the motion hearing scheduled for March 24, 2022, be continued based on the need for additional time for newly retained counsel to represent him in the upcoming motion hearing.

The Court has previously granted Defendant's Motion to Extend Disclosure Deadline [Dkt. No. 37], Motion for Withdrawal of Counsel [Dkt. No. 89], Motion for Continuance of Pre-Filing Deadlines [Dkt. No. 119], and, over the Government's objection, Defendant's Motion for Continuance of Hearing to Retain New Counsel [Dkt. No. 146]. Defendant discharged an additional three attorneys less than two weeks before the motion hearing and this Court granted a short continuance for Defendant to exercise due diligence in securing new trial counsel [Dkt. No. 150]. A month after the request was granted Defendant retained two attorneys to represent him in the upcoming motion hearing and now requests additional time to prepare. The Government objects to the most recent motion for continuance.

“A Defendant’s ‘right to choice of counsel must not obstruct orderly judicial procedure or deprive courts of their inherent power to control the administration of justice.’” *United States v. Cordy*, 560 F.3d 808, 815 (8th Cir. 2009). The Sixth Amendment right to counsel of one’s choice is not absolute. *Id.* at 815. The Court must balance the right of Defendant to retain his counsel of choice with the interests of the opposing party, whether the conduct of opposing party contributed to the delay, the effect of the continuance and the asserted need for the continuance. *Id.*

Defendant has been granted 3 continuances of his motion hearing date and the current date is now more than 5 months beyond his originally scheduled hearing. In addition, his pretrial motions have been filed since January 14, 2022. The Government has secured a witness for the hearing based on Defendant’s motions and the witness has had to change their schedule once already when the hearing was moved at Defendant’s request.

Based on the file, record, and proceedings, **IT IS HEREBY ORDERED:**

1. Defendant’s Motion for Continuance (Dkt. No. 160) is **DENIED**. The motions shall be heard before Magistrate Judge David T. Schultz on **March 24, 2022**, at **3:30 P.m.** in Courtroom 9E, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, unless Defendant consents to hearing by video conference.

Dated: March 11, 2022

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge